

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  OFFICE OF CONSUMER ADVOCATE,  Complainant,  vs.  TCPB MARKETING, INC.,  Respondent.	DOCKET NO. FCU-04-21
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**ORDER DOCKETING FOR FORMAL PROCEEDING  
AND REQUESTING RESPONSE**

(Issued June 18, 2004)

On May 12, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-04-62, involving TCPB Marketing, Inc. (TCPB), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On March 10, 2004, Mr. Ron Tesdall of Story Electric Contractors, Inc. (Story Electric), filed a complaint with the Board alleging that Story Electric's long distance service was changed without his authorization. Mr. Tesdall indicated that he received a phone call from a company claiming to be with Qwest and that the company's representative told him that Qwest would lower his monthly phone bill by consolidation. Board staff identified the matter as C-04-62 and, pursuant to Board rules, on March 11, 2004, forwarded the complaint to TCPB for response within ten days.

TCPB responded to the complaint on March 15, 2004. TCPB's response indicated that an individual sales agent solicited the order to change Story Electric's long distance service and that an independent third party verified the order to switch. On March 30, 2004, Board staff received a copy of the recording of the alleged verification.

On May 3, 2004, Board staff issued a proposed resolution describing these events and finding that the verification recording provided by TCPB was insufficient proof of authorization to change Story Electric's long distance company to TCPB. Board staff concluded that TCPB misled Mr. Tesdall to believe that the purpose of the call was for bill consolidation to lower Story Electric's telephone bill and that Story Electric's long distance service was slammed. Board staff noted that Qwest removed the TCPB charges and the switching fees from Story Electric's Qwest bill and that TCPB had closed Story Electric's account.

In its May 12, 2004, petition, Consumer Advocate asserts that a civil penalty should be imposed against TCPB to deter future slamming violations. Consumer Advocate requests that the Board docket this complaint for a formal proceeding. TCPB has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds that there is sufficient information to warrant further investigation in this matter. The Board will delay establishing a procedural schedule until July 12, 2004, and allow TCPB an opportunity to respond to the allegations raised in Consumer Advocate's petition.

**IT IS THEREFORE ORDERED:**

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on May 12, 2004, is granted and docketed for formal proceeding.
2. TCPB Marketing, Inc., is requested to file a response to Consumer Advocate's petition on or before July 12, 2004.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 18<sup>th</sup> day of June, 2004.